assignation not being a real, but only a personal right, and so could last no longer than Mr William Clark had it; and not after he was denuded by a real diligence. *Vol. I. Page* 128.

1681. *February* 4. JOHN COUPER *against* JANET MACGILL.

IN John Couper's action against Janet Macgill; Newbyth found the executions of the charge to enter heir, and of the summons raised thereon, null, because they were executed before year and day was expired after her goodsire's death; and, though it was more than a year since her father's death, yet she being *posthuma*, and it not being a year since her birth, he found the *annus deliberandi* ran *a tempore partus tantum*, and not from her father's death. *Vol. I. Page* 128.

1681. *February* 5. The EARL of NITHSDALE *against* His VASSALS of HALIEWOOD.

EARL of Nithsdale against his vassals of the abbacy of Haliewood, [*de sacro bosco.*] In this reduction and improbation, the defenders refused to take a term, because the Earl's predecessor being one of them, who, in 1633, and before, had surrendered to the King the superiorities of their church-lands, the Earl thereby ceased to be superior; and so, in a former pursuit, the Lords found they were not obliged to produce to him, but turned his reduction and improbation into an exhibition, that he, as Lord of erection, might see their writs, to the effect he might know what were the feu-duties they paid, to which he had right.

But the Earl REPLYING, That several of the vassals, since the year 1633, had taken charters to be holden of him, (which is lawful for them to do,) and so he had returned to the superiority, Lord Newbyth found all such were obliged to take a term in the reduction and improbation, to produce their evidents since 1633; and, *quoad* their writs before that, sustained only the summons to have the effect of an exhibition. *Vol. I. Page* 128.

1681. *February* 5. JAMES ELIES of SOUTHSIDE *against* JOHN BROWN of GEORGIE-MILL.

IN James Elies of Southside his reduction and improbation against John Brown of Georgie-mill, the Lords, on a bill, found the pursuer must, *in initio litis*, instruct a progress from these persons, granters of the writs which were called for in the improbation *active*. As likewise they find, that the representatives of these persons, who are named in the summons as authors to the defenders, must be called *passive in initio litis* if they be known; but, if they be